



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,409	11/03/2003	Jody Shapiro	2500803-991110	5713

7590 08/25/2006

William S. Frommer
Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

EXAMINER

HARRELL, ROBERT B

ART UNIT	PAPER NUMBER
----------	--------------

2142

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT

PAPER

20060821

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

1. The applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

2. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

3. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

4. Per paragraph 2 above, the applicant begins the election as one without traverse and then traverses the restriction at least between Group IV (claims 29-37 and 52-60) and Group V (claims 38-50 and 61-73). Thus, it is not certain if the applicant is attempting to reserve the right to petition the restriction requirement or not. To be fully responsive, the applicant must either elect an invention without traverse, and with no arguments, or with traverse and arguments but not a hybrid of the two (i.e., an election without traverse but with arguments) (see MPEP 818, 818.03, 818.03(a), 818.03(b), 818.03(c), and 818.03(d)).

5. While the applicant did make an original election on 25 May 2006 later to be withdrawn in favor of another substitute election, it is assumed that such a substitute election was totally without any traverse and arguments. Thus, the applicant is given 1 month from the date of this letter, or any remaining time of the original 11 May 2006 that is extendable, to either make an election with traverse and arguments; or, an election without traverse and no arguments of any one Group (i.e., the applicant is free to again elect from any of the Groups so indicated in the 11 May 2006 restriction requirement including an election of a Group not yet so elected).

Robert B. Harrell
Primary Examiner
Art Unit 2142